

Exhibit 2

From: Zorn, Matt
Sent: Monday, April 24, 2023 11:04 AM
To: Rodriguez, Jimmy (USATXS)
Cc: Powers, James R. (CIV)
Subject: RE: Zorn v. DOJ, Response to Discovery Motion
Attachments: RE: Ack for FOIA Request to OLC, FY23-037; Ack 23-037.pdf

Jimmy,

1. Confirmed on the guidance document—I will drop that claim. Happy to file a Rule 41 notice of dismissal. Does that work?
2. No need to discuss, as I'm opposed. Agreed "unusual circumstances" should proceed to summary judgment. I'm not sure a Rule 12(b)(6) motion is timely, but I most likely will not oppose in any event since I assume your 12(b)(6) arguments would be just as meritorious on summary judgment.
3. Any chance you guys can drop in a line to OLC? As you can see in the attached e-mail, following the deposition, I did, in fact, request the Colborn e-mail. It is now well past the deadline for a response to a request for a single, well-defined e-mail.

Matt

From: Rodriguez, Jimmy (USATXS) <Jimmy.Rodriguez2@usdoj.gov>
Sent: Monday, April 24, 2023 10:28 AM
To: Zorn, Matt <mzorn@yettercoleman.com>
Cc: Powers, James R. (CIV) <James.R.Powers@usdoj.gov>
Subject: Zorn v. DOJ, Response to Discovery Motion

Matt,

As you know, we will be filing our opposition to your discovery motion today. I wanted to also give you a heads-up that we will be moving to dismiss all claims except for the "unusual circumstances" policy and practice claim (we still agree that this claim should proceed to summary judgment). The motion to dismiss will primarily be based on the Court's lack of subject matter jurisdiction. But we will be challenging several claims under 12(b)(6). We don't believe that any of the issues we raise can be cured by an amended pleading. Let me know if you'd like to discuss.

Finally, I wanted to check-in with you about your claim regarding the DOJ guidance document on the redaction of employee names (count 9). At one time, you indicated that you planned to drop that claim. Can you confirm that you will no longer pursue that claim.

Thanks in advance

--Jimmy

From: Kaprove, Jared (OLC) <Jared.Kaprove@usdoj.gov>
Sent: Thursday, February 16, 2023 9:40 AM
To: Zorn, Matt
Cc: USDOJ-Office of Legal Counsel (SMO)
Subject: RE: Ack for FOIA Request to OLC, FY23-037

Great, I'll plan to call at 11 EST.

From: Zorn, Matt <mzorn@yettercoleman.com>
Sent: Thursday, February 16, 2023 1:16 AM
To: Kaprove, Jared (OLC) <Jared.Kaprove@usdoj.gov>
Cc: USDOJ-Office of Legal Counsel (SMO) <Ex_OLC@jmd.usdoj.gov>
Subject: [EXTERNAL] RE: Ack for FOIA Request to OLC, FY23-037

Mr. Kaprove – The first window 10-12 is probably best. Apologies for the late reply, I had some filings yesterday. My direct office number is best.

From: Kaprove, Jared (OLC) <Jared.Kaprove@usdoj.gov>
Sent: Wednesday, February 15, 2023 8:25 AM
To: Zorn, Matt <mzorn@yettercoleman.com>
Cc: USDOJ-Office of Legal Counsel (SMO) <[USDOJ-OfficeofLegalCounsel@usdoj.gov](mailto:Ex_OLC@jmd.usdoj.gov)>
Subject: RE: Ack for FOIA Request to OLC, FY23-037

Mr. Zorn, I'd be happy to talk through this request with you. I'm available today from 1-6 pm EST, or tomorrow from 10-12 or 2-6. Please let me know your preferred time, and which of your numbers below would be best to call. Before we speak, it would be helpful if you could pull together what information you have about what you're seeking that might be helpful to us in finding it or determining whether it exists.

Jared Kaprove
FOIA and Records Management Attorney
Office of Legal Counsel
U.S. Department of Justice

From: Zorn, Matt <mzorn@yettercoleman.com>
Sent: Tuesday, February 14, 2023 11:00 AM
To: USDOJ-Office of Legal Counsel (SMO) <Ex_OLC@jmd.usdoj.gov>
Subject: [EXTERNAL] RE: Ack for FOIA Request to OLC, FY23-037

Ms. Golden,

I am writing regarding my FOIA request for “the document and/or e-mail authored by Paul Colborn that contains or relates to OLC’s interpretation of 5 USC 552(j)(1). . . . [from] 1/1/2016 to 1/1/2020.”

OLC describes this request for a single document as “complex,” relegates my request to the complex track, and informs me that it has been tentatively assigned to the complex track. Therefore, OLC will not process the

request until other requests are processed first. The response gives no indication as to when this processing will be, nor does it inform me how many other requests are currently pending. The response does invite me, however, to narrow my request so it can be transferred to the “simple” track and processed more quickly.

Without belaboring the point, this is not a good faith determination. Indeed, I am at a loss at how one could further narrow a request for a single document/e-mail and which request identifies the specific custodian interpreting a very specific statutory provision. The search involved in producing the responsive document to the request—searching Mr. Colburn’s e-mails for the term “552(j)(1)”—takes 20 minutes tops.

Notably, OLC does not claim any “unusual circumstances” applies. Agency backlogs alone are, of course, not a legal basis to refuse to timely process a request. Thus, as OLC admits, it has failed to comply with the statutory deadline in responding to my request. My remedies are now deemed exhausted.

As OLC may know, I need this document for pending litigation in the Southern District of Texas before Judge Tipton against the Department of Justice regarding DOJ’s unlawful FOIA policies and practices.

I wish to discuss this request further. Please let me know a good time to call.

Best regards,
Matthew Zorn

From: USDOJ-Office of Legal Counsel (SMO) <USDOJ-OfficeofLegalCounsel@usdoj.gov>
Sent: Thursday, February 9, 2023 8:23 AM
To: Zorn, Matt <mzorn@yettercoleman.com>
Subject: Ack for FOIA Request to OLC, FY23-037

Dear Mr. Zorn:

Attached, please find the acknowledgement letter for your FOIA request to OLC that has been assigned tracking number FY23-037.

Sincerely,
Melissa Golden, Esq.
Lead Paralegal and FOIA Specialist
Office of Legal Counsel
Department of Justice

From: Zorn, Matt <mzorn@yettercoleman.com>
Sent: Thursday, January 19, 2023 6:34 PM
To: USDOJ-Office of Legal Counsel (SMO) <Ex_OLC@jmd.usdoj.gov>
Subject: [EXTERNAL] FOIA Request for OLC Interpretation of 5 USC 552(j)(1)

Ms. Golden,
I hereby request the document and/or e-mail authored by Paul Colborn that contains or relates to OLC’s interpretation of 5 USC 552(j)(1). Time period: 1/1/2016 to 1/1/2020.
Thank you,
Matthew Zorn

Matthew Zorn | Partner | Yetter Coleman LLP
811 Main Street, Suite 4100, Houston, Texas 77002
(D) 713.632.8064 | (M) 301-221-9608 | (O) 713.632.8000

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U.S. Department of Justice

Office of Legal Counsel

Washington, D.C. 20530

February 9, 2023

Matthew Zorn
Partner
Yetter Coleman LLP
mzorn@yettercoleman.com

Re: FOIA Tracking No. FY23-037

Dear Mr. Zorn:

This letter acknowledges receipt of your January 19, 2023 Freedom of Information Act (“FOIA”) request to the Office of Legal Counsel (“OLC”), in which you sought “the document and/or e-mail authored by Paul Colborn that contains or relates to OLC’s interpretation of 5 USC 552(j)(1). . . . [from] 1/1/2016 to 1/1/2020.” We received your request on January 19, 2023, and it has been assigned tracking number **FY23-037**.

Based on our preliminary review of your request, and pursuant to 28 C.F.R. § 16.5(b), your request has been tentatively assigned to the “complex” processing track. If you would like to narrow your request so that it can be transferred to the “simple” track and processed more quickly, please contact Melissa Golden at the addresses and phone number provided below.

Because of the considerable number of FOIA requests received by OLC prior to your request, we have not yet been able to process your request. Accordingly, we likely will be unable to comply with the statutory deadline for responding to your request. We regret the necessity of this delay, but please be assured that your request will be processed as soon as possible.

In the meantime, if you have any questions or wish to discuss your request, you may contact Melissa Golden, OLC’s FOIA Public Liaison, at usdoj-officeoflegalcounsel@usdoj.gov, (202) 514-2053, or at Office of Legal Counsel, United States Department of Justice, 950 Pennsylvania Ave., N.W., Room 5517, Washington, DC 20530.

Sincerely,
OLC FOIA Staff